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1 BOARD'S AGENT:

2 DONOVAN ANDERSON, Presiding

3

4 Board MEMBERS

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MIKE SILVERSTEIN

8 JAMES SHORT

9

10 ALSO PRESENT:

11 ANDREW KLINE

12 HOUSHANG MOMENIAN

13

1 P R O C E E D I N G S

2 FACT FINDING HEARING

3 CHAIRPERSON ANDERSON: We now have a Fact
4 Finding Hearing for Grapes n' Hopes Market,
5 License #77268. Are the parties here? Will you
6 please approach?

7 MR. KLINE: Good morning, Andrew Kline
8 for the applicant.

9 CHAIRPERSON ANDERSON: Good morning, Mr.
10 Kline.

11 MR. MOMENIAN: Houshang Momenian.

12 CHAIRPERSON ANDERSON: I'm sorry, sir, I
13 didn't hear your name.

14 MR. MOMENIAN: Houshang Momenian.

15 CHAIRPERSON ANDERSON: Houshang Momenian.
16 And he's the owner?

17 MR. KLINE: Yes.

18 CHAIRPERSON ANDERSON: All right, thank
19 you. We have a Fact Finding Hearing, called a
20 Fact Finding Hearing because this license is in
21 safekeeping. I think it was cancelled by the
22 Board. I think that Mr. Kline had requested --

1 or sent in a letter stating that it was an error
2 on the Board's part, and this is a Class B
3 license, and so what we're trying to find some
4 information, why is it that this license has been
5 in this status for such a long period of time and
6 what is it that the Board needs to do regarding
7 this license.

8 MR. KLINE: Okay, I'll start and then
9 I'll let Mr. Momenian fill in since he owns the
10 property and is more familiar with it than I am.
11 When we initially applied for the license, there
12 was a very small building there which Mr.
13 Momenian initially intended to use for the Class
14 B license. It really is a tiny building, less
15 than 500 square feet.

16 MR. MOMENIAN: Much less.

17 MR. KLINE: Yeah, it's very small. And
18 there also was a car rental sales agency on the
19 lot at that time. We went through the process,
20 we dealt with the neighborhood, we ultimately got
21 that license approved. After that time, Mr.
22 Momenian started looking at the feasibility of

1 the store and the lot and in the meantime the car
2 sales agency left and vacated the remainder of
3 the lot and he's been working through the
4 building of a building on the lot, and it is his
5 intention to build a multi-story building and
6 have a B license occupy the first floor of the
7 lot. Correct?

8 MR. MOMENIAN: Yes.

9 MR. KLINE: Okay, is there anything you
10 want to add to that before the Board --

11 MR. MOMENIAN: No, that's it.

12 MR. KLINE: -- proceeds with questions
13 about this?

14 CHAIRPERSON ANDERSON: You have nothing
15 to add? This has been going on since 2009. This
16 is now 2016, so that's over almost, almost 7
17 years to the date, today is May -- it appears the
18 license was issued May 2009 and this is May 2016,
19 you have a valuable license, sir, that's not been
20 utilized so where are you in moving forward to
21 utilize this license?

22 MR. MOMENIAN: I am -- just because the

1 law has been changed on D.C. building permits for
2 a percentage, of how many percent of lots you can
3 build and how many connect to -- how many square
4 feet you have -- but my main misunderstanding was
5 that there is no problem while I'm paying the
6 fees, there is no problem to have the license and
7 pay for it, because there is another property
8 next door and I was thinking to get the final and
9 they have done some studies what options I have
10 and we waited.

11 But, if there isn't any problem for my
12 license, I'll open it. But my understanding was
13 as long as I paid the money -- the fees for the
14 license -- I could take my time and make the best
15 out of the property. Now, if there is a problem
16 I'll open it. If there is no problem, I am
17 negotiating with engineers to see if the law has
18 changed to my favor, and that's why I hope it's
19 changed, but if it's a problem I'll open, if it's
20 not a problem I'll keep it in safe -- in the safe
21 until I open -- and if there is a deadline,
22 please let me know when is the deadline, I will

1 follow that deadline.

2 CHAIRPERSON ANDERSON: Well, I think your
3 license is in safekeeping through September 30th,
4 2016, so that's the deadline that I think you're
5 working on because it's on -- that's the status
6 it's on, but I guess the bottom line, though,
7 sir, when licenses are issued, it's my
8 understanding folks come to us, they apply for a
9 license because they are ready to open a
10 business, and so, therefore, all licenses are
11 valuable, but you're not operating as a business,
12 so why is it that you have a license that you're
13 not -- that you're not using?

14 MR. MOMENIAN: I'm sorry, but I've been
15 here paying the dues and nobody told me that
16 before that I have any problem. I, me,
17 personally, or somebody came here and paid the
18 fees. Nobody told me I have a problem not
19 opening it, but first time I'm hearing now. And
20 whatever you say I will do it. I don't want to
21 lose the license and I will do whatever you
22 suggest.

1 CHAIRPERSON ANDERSON: All right. Mr.
2 Alberti.

3 MR. ALBERTI: Yes. Sir, I recently
4 received information from staff, through DCRA,
5 that 512 Rhode Island, LLC, that entity was
6 revoked by DCRA back in 2011. Can you tell me
7 what the status is of that corporation with DCRA?

8 MR. MOMENIAN: I --

9 MR. KLINE: No, we can't. I mean, we'll
10 certainly look into that, if that's an issue,
11 staff would have reached out.

12 MR. ALBERTI: Well, it's something I'd
13 like to know in making my decision as to where --
14 what I think should happen with this license, as
15 to whether since 2011 we even have an entity in
16 good standing with DCRA to own the license. I
17 will say it this time, just based on what I've
18 heard, it would be my opinion that if the license
19 isn't operating as of the end of September I
20 would be in favor of cancelling this license.
21 It's gone on too far. I don't know what it would
22 take to get you operating, I mean you have a

1 building there but you've got inspections by
2 DCRA, DOH, all kinds of things, hoops you're
3 going to have to jump through, I would imagine,
4 but that's on you. You've had plenty of time to
5 use this license and that's my opinion.

6 MR. KLINE: Mr. Chair, if I may?

7 CHAIRPERSON ANDERSON: Yes, Mr. Kline.

8 MR. KLINE: Mr. Alberti, I understand
9 your position. I don't obviously know whether
10 that's the rest of the Board shares that
11 position, if that is the Board's position then we
12 would request, as long as he's moving forward and
13 in good faith to open a store, because it is now
14 May, May to September sounds like a long time --
15 in DCRA years, it's not, it's not a long time.
16 So, I understand your concern, so as I said if
17 that's the Board's will, then we would request
18 that you tweak that a little bit and, you know,
19 we'll report back to you by September as to what
20 the progress is and what we're doing. In terms
21 of the entity, we will certainly look into that.
22 I'm a little baffled as to how the license could

1 have been reneged without the ANC being in good
2 standing because that's a condition of renewal,
3 so we'll look at that but it's a little baffling
4 to me that it could have been reneged without
5 being in good standing. But if it's not in good
6 standing it obviously needs to be in good
7 standing.

8 MR. ALBERTI: So, Chairman Anderson, I
9 don't want to wait until September to hear from
10 them on their progress. As you've noted this
11 license has been in safekeeping for quite a long
12 time and there's been obviously no progress made
13 on that property, so I mean if it's the will of
14 the Board to tweak the date of September 30th, as
15 Mr. Kline has referenced it, I would ask the
16 licensee to come back sometime maybe in 30 days,
17 give them that long to figure out how long it's
18 going to take them and then talk to us about what
19 their plans are because I don't want to be on
20 September 30th to hear that it's going to take
21 them another six months to operate and now
22 that's, you know, I would just like to get a firm

1 date and I don't want to put them on the spot, I
2 want to be fair, I don't want to put them on the
3 spot and get a firm date today, but I think in a
4 month, they should be able to give us a firm date
5 as to when they would be able to open. I don't
6 think that's unfair given the amount of time that
7 this licensee has held this license.

8 CHAIRPERSON ANDERSON: Okay, I'll just
9 see what other questions other Board members and
10 -- MR. KLINE: Mr. Chair, if I might, just
11 one other point.

12 CHAIRPERSON ANDERSON: Yes, Mr. Kline.

13 MR. KLINE: You've heard from Mr.
14 Momenian. He, in good faith, believed that as
15 long as he paid the fees he was good to go. At
16 one point, I think that that was the Board's
17 position. I think over the last few years the
18 Board's position on licenses in safekeeping has
19 shifted a bit, which is fair, I mean the Board
20 makes policy and the Board is entitled to shift
21 its approach, but I don't want it to be lost that
22 coming into this and applying for the license,

1 that's not what his expectation was. That's not
2 -- I'm not saying the Board can't change that,
3 and the Board has but he's paid license fees
4 every year in good faith, he has made -- I don't
5 want to say, Mr. Alberti, you said no progress
6 has been made. That's not quite true because Mr.
7 Momenian has been looking at building a building
8 there where the store would reside rather than
9 the tiny, little building that is currently
10 there, which he currently anticipated would be
11 licensed, so yes, in terms of moving to
12 immediately open a store, I agree with you.

13 In terms of no progress being made on the
14 property I think I have to slightly disagree with
15 that conclusion because he has been looking at
16 making that location a viable location with a new
17 building.

18 CHAIRPERSON ANDERSON: Just, I have a
19 quick question. Mr. Momenian can apply for a
20 license at any point. So, why hold onto a
21 license that you're not using when --

22 MR. KLINE: He can't apply for one of

1 these. He cannot.

2 CHAIRPERSON ANDERSON: I know -- I know -
3 - I know. Look, I'm aware of that and that's --
4 I think that's the issue because you own a
5 license that the value of the license is not
6 being used and there can be another operator who
7 would really want to use the license, but go
8 ahead, Mr. Alberti.

9 MR. ALBERTI: So, one last thing. It's
10 been my recommendation that we ask the licensee
11 to clear up the status of the corporation with
12 DCRA. You clear it up by the end of the week. I
13 mean, they should know, they should be able to
14 find out and they should know by the end of the
15 day even but I would give them until CLB Friday
16 to find out whether they're in good standing or
17 not with DCRA. And it's my view that if they
18 haven't been in good standing since 2011 it shows
19 a lack of effort to do anything with this
20 property and I would just go ahead and cancel it
21 at the end of September. I'm seeing no evidence
22 of progress here presented to us today, just Mr.

1 Momenian's word that he's looking -- the lack of
2 good standing with DCRA since 2011 would be a
3 very -- would be of grave concern to me.

4 MR. KLINE: I understand your position.
5 In the real world, lack of good standing with
6 DCRA in terms of corporations, it's a ministerial
7 act, it's a payment of fees, it's something that
8 happens more often than you might appreciate and
9 the fact that they're not in good standing, we're
10 expressing our surprise today, I'm expressing my
11 surprise that the license could have been renewed
12 without the entity being in good standing. We
13 will certainly look into that. I would ask for
14 more than by the end of the week, having dealt
15 with these agencies. You have a lot more
16 confidence in their ability to respond and give
17 us information in terms of what filings might
18 have been missed and what needs to be filed. We
19 can certainly do it within a week. We probably
20 can get it done by the end of the week but as I
21 said, having dealt with these other agencies you
22 seem to have a lot more confidence with their

1 willingness and ability to respond promptly than
2 I do, frankly.

3 CHAIRPERSON ANDERSON: All right, Mr.
4 Short.

5 MR. SHORT: Yes, good morning. So, Mr.
6 Alberti mentioned 30 days before he mentioned the
7 close of business Friday. Are there any building
8 permits or are there any plans that have been
9 submitted?

10 MR. KLINE: There are concept drawings,
11 there are not the building permits that have been
12 submitted. I have concept drawings. I can pass
13 them up for the Board's review if the Board is
14 interested.

15 MR. ALBERTI: Well, as you know there's a
16 big difference between concepts and this has been
17 going on since 2006 --

18 MR. KLINE: '09 is when I think is what
19 we --

20 MR. ALBERTI: So this is when the
21 licensee obtained his license. Just want to make
22 sure the record's straight on that. Our records

1 show 2006.

2 MR. SHORT: I guess my question would be,
3 then what could you produce for us in 30 days
4 that would assure at least myself as a Board
5 member that you plan on using this valuable
6 license to benefit the District of Columbia and
7 the citizens, because if other businesses that
8 would like to have this and make it fruitful for
9 the city, then it would be my opinion, as a Board
10 member, it's my opinion that we should cancel
11 this.

12 So, again, if I ask in 30 days that would
13 be to come back before us and let us know exactly
14 what you plan on doing because if we're going to
15 extend this until September 30th, at that time if
16 you haven't done anything I, like Mr. Alberti,
17 would just say we cancel this.

18 MR. KLINE: Well, let me say this to you,
19 it's my understanding that where we are now is
20 the license is -- the safekeeping is valid
21 through September 30th. Mr. Momenian has said,
22 okay, I've been paying for this license. I

1 intend to use it. I intended to use it in a new
2 building. If you're telling me that the Board is
3 unwilling to wait, what he has told you is he
4 will open. In order to open what he will need to
5 do, and he knows this because he's an experienced
6 business person and real estate owner in the
7 District of Columbia, he will need to file an
8 application for a building permit which will lead
9 to the issuance of a C of O. You have the C of
10 O. Southeast can do -- he's informed me we have
11 a C of O so we can move pretty quickly.

12 MR. SHORT: So in thirty days, if the
13 Board were to request you to come back in thirty
14 days you could produce something that would show
15 us you want a road to opening -- not speaking of
16 opening but actually opening -- a business with
17 this Class B license.

18 MR. KLINE: Given what we know at this
19 point, we have until September 30th, We'll open
20 the store by September 30th. I don't think, you
21 know, in terms of coming back, I don't know why
22 we would need to come back. Mr. Momenian informs

1 me he has the Certificate of Occupancy. The only
2 thing we need to do is make sure that the store
3 is ready to open, call for a health inspection --
4 call for a health inspection -- and then have a
5 basic business license open and then we'll be in
6 touch and make sure the operation is in good
7 standing and at that point request issuance of
8 the license. We will be open well before
9 September 30th.

10 CHAIRPERSON ANDERSON: Just a quick
11 question, Mr. Kline if when I inform the Board,
12 what is the C of O for?

13 MR. KLINE: The C of O is for a
14 prepackaged feed store consistent with what one
15 would use with a Class B license.

16 CHAIRPERSON ANDERSON: All right.

17 MR. KLINE: And I have a copy of the
18 quarterly if you want to see it.

19 CHAIRPERSON ANDERSON: All right. Any
20 other questions by any other Board members?

21 MS. MILLER: I do. Or it's kind of a
22 question and statement. I am under the

1 impression that the store couldn't open until it
2 was placarded and went through the protest
3 period, because it's been in safekeeping so long.

4 MR. KLINE: That's not my understanding
5 of your regulations, but --

6 MS. MILLER: What's your understanding?

7 MR. KLINE: My understanding is the
8 license would be issued and at that point if the
9 Board determined it would be placarded, it would
10 be placarded after issuance. That's my
11 understanding.

12 MS. MILLER: Okay, but I mean are you
13 saying it would be open?

14 MR. ALBERTI: That's correct, Mr. Kline.
15 He could open --

16 MS. MILLER: Open in the meantime?

17 MR. ALBERTI: He could open -- when a
18 license comes out of safekeeping if they've
19 missed a renewal period they are allowed to open
20 and the placards go up --

21 MS. MILLER: While they're open.

22 MR. ALBERTI: The protest criteria runs

1 while the establishment is open.

2 MR. KLINE: That's what I thought.

3 MS. MILLER: Okay, okay.

4 CHAIRPERSON ANDERSON: Any other
5 questions by any other Board members? As you
6 know, the policies to renew a license and keep it
7 safekeeping until September 30th, so we'd have to
8 go through this process again to extend
9 safekeeping after this period of time. What I'm
10 hearing from Board members is that rather than
11 you just said a blanket statement you still
12 haven't provided concrete information. How much
13 time is it that you believe that you can provide
14 the Board operating information to say "this is
15 where I am in my opening -- in opening the
16 business.

17 MR. KLINE: I don't --

18 CHAIRPERSON ANDERSON: Mr. Alberti said
19 thirty days. Do you need -- what is it -- how
20 much time do you need to come back to the Board
21 rather than -- so we don't have to go back
22 through this again past September 30th.

1 MR. KLINE: I don't think we need past
2 September 30th and I'm not sure why we need to
3 come back. It seems to me as I've explained
4 there are just a couple of issues. One is if the
5 corporation is, indeed, not in good standing,
6 that issue needs to be addressed and we'd be
7 looking to do that within seven days. In terms
8 of the rest of it, we have the C of O which I was
9 unaware of as I was sitting here. We have the
10 Certificate of Occupancy, so I think that the
11 only thing we need to do to be in compliance is
12 open the store by September 30th. I mean, I'm
13 not sure what it is -- unless you are going to
14 change the September 30 status at this point,
15 which we would [inaudible 1:02:32] argue against.
16 We're going to open the store by September 30th.
17 I'm not sure what it is you need us to come back
18 and report about.

19 CHAIRPERSON ANDERSON: Well, if you're --
20 if -- if your representation is that you're not
21 going to come back in and request another
22 extension of safekeeping then --

1 MR. KLINE: We do not anticipate the need
2 to do that. I will leave it open in that way so
3 having dealt in this city for many, many years
4 and dealt with regulatory agencies, there is
5 always the unforeseen, but at this point we do
6 not anticipate that there is any reason in the
7 world why we can't get the store open by much
8 earlier than September 30th.

9 CHAIRPERSON ANDERSON: Mr. Alberti.

10 MR. ALBERTI: I will, in that case, my
11 view is that the responsibility is on the
12 licensee to check with our licensing specialist
13 here to find out exactly what documents are
14 needed before September 30th for them to open.

15 MR. KLINE: We'll do that.

16 MR. ALBERTI: -- for the license to issue
17 to come out of safekeeping, because I'm sure that
18 -- I suspect that there are missing documents or
19 out of date documents in our file that need to be
20 updated, so, the onus is on the licensee to make
21 sure that that happens. I, for one, don't want
22 to hear on September 30th 'oh, we didn't know we

1 needed that and we couldn't open.' I think at
2 this point the message has been broadcast to the
3 licensee and the responsibility is with the
4 licensee to make sure that everything's in place
5 by September 30th.

6 MR. KLINE: We hear you loudly and
7 clearly.

8 CHAIRPERSON ANDERSON: Do we have any
9 other questions by any other Board members? Ms.
10 Miller?

11 MS. MILLER: Yes, just long-term plans,
12 is it your plan to open in the small building for
13 the short term and then eventually move into the
14 larger building when you get the building all
15 set?

16 MR. MOMENIAN: Yes, after the process of
17 new building before a resident then we
18 [[inaudible 1:04:33]].

19 MS. MILLER: When do you anticipate that
20 that would be?

21 MR. MOMENIAN: I don't want to go into
22 detail of what's my problem. The problem is

1 getting the proper permission from D.C.
2 Government. Now, if you look at just this
3 [inaudible 1:04:54] the same property you see
4 going up six floors but when you go get the
5 permit you have a problem. It just takes extra
6 effort. I'm not saying you have to find the way
7 to do it because what you say, to do what you say
8 is not very easy. Sometime the size of the
9 building and sometimes it's not the size of the
10 building.

11 MS. MILLER: Okay.

12 MR. MOMENIAN: [inaudible] of the
13 problem. So, I'm the person, I'm losing, having
14 a vacant lot, so honestly I'm very concerned
15 because I paid the property tax, I pay all the
16 other expenses, I would like to have something
17 there.

18 MS. MILLER: Okay, thank you.

19 CHAIRPERSON ANDERSON: All right. Mr.
20 Kline since you said that you have a copy of the
21 C of O could you make -- ensure that the agency
22 gets a copy of the document before --

1 MR. KLINE: Do you want it now or do you
2 want me just to just e-mail it to staff.

3 CHAIRPERSON ANDERSON: Ms. Walker will
4 take it. All right. Do you have any final
5 comments to make?

6 MR. KLINE: I don't. I appreciate you
7 having us in today. Mr. Momenian is acting in
8 good faith; we want the Board to know that, and
9 as he has said, and I have said, if it's the
10 Board's position that the license cannot remain
11 in safekeeping that he will open the store,
12 understanding -- and I think he said this in
13 response to Board member Miller's question -- I
14 just want to be clear that his plan is he will
15 open the store at such time as gets approval to
16 build a building there, then at some point when
17 demolition begins he will again surrender the
18 license for safekeeping through the course of
19 construction with the idea that he will reopen
20 the store once the building is built because
21 [inaudible 1:06:55] and he's in the position to
22 have the license reissued for a brand new store.

1 CHAIRPERSON ANDERSON: Thank you, sir.

2 The Board will take this under advisement.

3 Thank you.

4 MR. KLINE: Thank you.

5 (Whereupon the above-entitled matter was
6 concluded.)